

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

Adrian Montoya Carlos,
Petitioner,

v.

United States of America,
Respondent.

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Case No. 4:14-CR-3109-001

EX-PARTE MOTION TO REVOKE IMPOSITION OF SUPERVISED RELEASE

COMES NOW, Petitioner, Adrian Montoya Carlos, acting in pro per (pro se), respectfully submits this ex-parte motion to revoke imposition of Supervised Release, pursuant to all Federal Rules, Regulations and Procedures in conjunction with U.S.S.G. § 5D1.1(c). Petitioner further prays that this court construe his pleadings liberally in light of Haines v. Kerner, 404 US 519, 520 -21(1972), holding that, "pro se litigants are to be held to a lesser standard of review than lawyers who are formerly trained in the law, and are entitled to a liberal construction of their pleadings."

F A C T S :

1) Petitioner is currently incarcerated at the GEO (Great Plains Correctional Facility) whose address is P.O. BOX 400, Hinton, Oklahoma 73047.

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2) Petitioner was convicted of 21 U.S.C. § 846 Conspiracy to Distribute methamphetamine, 18 U.S.C. § 922(g)(5) Illegal Alien in Possession of Firearm and Ammunition (ct 3) and currently has a Supervised Release term to successfully complete upon release from this facility.

3) Petitioner is an illegal alien and will be DEPORTED upon release from this facility.

4) Petitioner contends the Following:

In 2011, the United States Sentencing Guidelines were amended to recomend against the imposition of Supervised Release in cases where the defendant is likely to be deported after imprisonment. see USSG § 5D1.1(c) & Cmt. n.5 Section 5D1.1(c) recommends that supervised release should not imposed absent a determination that supervised released would provide an added measure of deterrence and protection based on the facts and circumstances of a particular case. "the need to afford adequate deterrence and protect the public ordinarily is adequately served by a new prosecution" USSG § 5D1.1 cmt n. 5.

Petitioner is already serving a term of imprisonment for conspiracy to distribute methamphetamine and illegal alien in possession of firearm and ammunition.

Because this court failed to take into consideration § 5D1.1(c) when petitioner's sentence was imposed,petitioner respectfully requests that this court reconsider due to the fact that no unusual

or uncommon circumstances exist which would have required the imposition of Supervised Release. U.S. v. Alberto Cortez, 513 Fed. Appx. 668 2013 US App. Lexis 5664 (9th Cir. 2013).

THEREFORE, based on the foregoing, petitioner respectfully requests that this Honorable Court Vacate the imposition of Supervised Release, all in the interest of Justice. Petitioner has shown good faith and good cause to GRANT this petition.

Respectfully submitted on this 07 day of june, 2017.

Respectfully,

Adrian montoya Carlos
Amontoya

s/Adrian Montoya Carlos
Petitioner/Affiant

IN PRO PER

Fed. Reg. No.

Great Plains Correctional Facility

P.O. BOX 400

Hinton., OK 73047

C E R T I F I C A T I O N

" I declare, under penalty of perjury, that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746. Executed on this 07 day of June, 2017."

Signed,

Amontoya.
Adrian Montoya Carlos

C E R T I C A T E O F S E R V I C E

" I, Adrian Montoya Carlos hereby certify that I have served a true and correct copy of the following:

EX-PARTE MOTION

This ACTION is deemed filed at the time it was delivered to prison authorities for forwarding, [see Houston v. Lack, 101 L. Ed. 2d 245 (1988)], upon the defendant(s) or plaintiff(s) and/or their attorney(s) of record, by placing said MOTION/PETITION(S) in a sealed, postage pre-paid envelope addressed to:

U.S. DISTRICT COURT
Roman L. Hruska U.S. Courthouse
111 S. 18 th Plaza
Omaha, NE 68102

This LEGAL ACTION was deposited in the United States Mail at the GEO, (Great Plains Correctional Facility) legal Mail Room, located in Hinton, Oklahoma. Executed and Signed on this 07 day of June, 2017.

Signed,

Amontoya.
Adrian Montoya Carlos
Petitioner/Affiant
IN PRO PER

Adrian montoya Carlos
26770-047
Great plains correctional Facility
P.O. box 400
Hinton, OK 73047

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United states District court
Roman L. Hruska U.S. courthouse
111 S. 18th plaza, suite 1152
Omaha, Ne. 68102-1322

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